

COUNTY CORRECTIONAL FACILITIES FUNDING

AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill amends provisions of Title 64, Chapter 13e, State Payment and Reimbursement to County Correctional Facilities, relating to determining the actual state daily incarceration rate and the compensation rate for housing state inmates pursuant to a contract.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that the compensation rate for housing state inmates pursuant to a contract shall be:

- 73% of the final state daily incarceration rate for beds in a county that, pursuant to the contract, are dedicated to a treatment program to state inmates, if the treatment program is approved by the Department of Corrections; and

- 70% of the final state daily incarceration rate for beds in a county that are not described in the preceding paragraph;

- ▶ grants rulemaking authority to the Department of Corrections;
- ▶ describes the criteria for approving a treatment program; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **64-13e-102**, as last amended by Laws of Utah 2009, Chapter 56

34 **64-13e-103**, as last amended by Laws of Utah 2008, Chapter 188



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **64-13e-102** is amended to read:

38 **64-13e-102. Definitions.**

39 As used in this chapter:

40 (1) "Actual state daily incarceration rate" means the daily incarceration rate that reflects
41 the actual expenses of the department, including:

- 42 (a) executive overhead;
- 43 (b) administrative overhead;
- 44 (c) transportation overhead;
- 45 (d) division overhead;
- 46 (e) motor pool expenses;
- 47 (f) medical expenses;
- 48 (g) mental health expenses;
- 49 (h) dental expenses; [~~and~~]

50 (i) straight line capital depreciation, over a 40-year period, for prison facilities of the
51 department[-]; and

52 (j) expenses for treatment, including substance abuse treatment, alcohol abuse
53 treatment, and sex offender treatment.

54 (2) "CCJJ" means the Utah Commission on Criminal and Juvenile Justice, created in
55 Section 63M-7-201.

56 (3) "Department" means the Department of Corrections.

57 (4) "Division of Finance" means the Division of Finance, created in Section

58 63A-3-101.

59 (5) "Final state daily incarceration rate" means the average actual state daily
60 incarceration rate, calculated, reviewed, and discussed under Section 64-13e-105, and approved
61 by the Legislature under Subsection 64-13e-105(3).

62 (6) "State inmate" means a person, other than a state probationary inmate or state
63 parole inmate, who is committed to the custody of the department.

64 (7) "State parole inmate" means a person who is:

65 (a) on parole, as defined in Section 77-27-1; and

66 (b) housed in a county jail for a reason related to the person's parole.

67 (8) "State probationary inmate" means a felony probationer sentenced to time in a
68 county jail under Subsection 77-18-1(8).

69 (9) "Treatment program" means:

70 (a) an alcohol treatment program;

71 (b) a substance abuse treatment program; or

72 (c) a sex offender treatment program.

73 Section 2. Section **64-13e-103** is amended to read:

74 **64-13e-103. Contracts for housing state inmates.**

75 (1) Subject to Subsection (6), the department may contract with a county to house state
76 inmates in a county or other correctional facility.

77 (2) The department shall give preference for placement of state inmates, over private
78 entities, to county correctional facility bed spaces for which the department has contracted
79 under Subsection (1).

80 (3) (a) The compensation rate for housing state inmates pursuant to a contract
81 described in Subsection (1) shall be [~~70% of the final state daily incarceration rate.~~];

82 (i) 73% of the final state daily incarceration rate for beds in a county that, pursuant to
83 the contract, are dedicated to a treatment program to state inmates, if the treatment program is
84 approved by the department under Subsection (3)(c); and

85 (ii) 70% of the final state daily incarceration rate for beds in a county other than the

86 beds described in Subsection (3)(a)(i).

87 (b) The department shall:

88 (i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
89 Rulemaking Act, that establish standards that a treatment program is required to meet before
90 the treatment program is considered for approval for the purpose of a county receiving payment
91 based on the rate described in Subsection (3)(a)(i); and

92 (ii) determine on an annual basis, based on appropriations made by the Legislature for
93 the contracts described in this section, whether to approve a treatment program that meets the
94 standards established under Subsection (3)(b)(i), for the purpose of a county receiving payment
95 based on the rate described in Subsection (3)(a)(i).

96 (c) The department may not approve a treatment program for the purpose of a county
97 receiving payment based on the rate described in Subsection (3)(a)(i), unless:

98 (i) the program meets the standards established under Subsection (3)(b)(i);

99 (ii) the department determines that the Legislature has appropriated sufficient funds to:

100 (A) pay the county that provides the treatment program at the rate described in
101 Subsection (3)(a)(i); and

102 (B) pay each county that does not provide a treatment program an amount per state
103 inmate that is not less than the amount per state inmate received for the preceding fiscal year by
104 a county that did not provide a treatment program; and

105 (iii) the department determines that the treatment program is needed by the department
106 at the location where the treatment program will be provided.

107 (4) Compensation to a county for state inmates incarcerated under this section shall be
108 made by the department.

109 (5) Counties that contract with the department under Subsection (1) shall, on or before
110 June 30 of each year, submit a report to the department that includes:

111 (a) the number of state inmates the county housed under this section; and

112 (b) the total number of state inmate days of incarceration that were provided by the
113 county.

114 (6) Except as provided under Subsection (7), the department may not enter into a
115 contract described under Subsection (1), unless the Legislature has previously passed a joint
116 resolution that includes the following information regarding the proposed contract:

- 117 (a) the approximate number of beds to be contracted;
- 118 (b) the final state daily incarceration rate;
- 119 (c) the approximate amount of the county's long-term debt; and
- 120 (d) the repayment time of the debt for the facility where the inmates are to be housed.

121 (7) The department may enter into a contract with a county government to house
122 inmates without complying with the approval process described in Subsection (6) only if the
123 county facility was under construction, or already in existence, on March 16, 2001.

124 (8) Any resolution passed by the Legislature under Subsection (6) does not bind or
125 obligate the Legislature or the department regarding the proposed contract.